

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.39076 of 2007
SACHCHIDANAND THAKUR & ORS
Versus
STATE OF BIHAR

**For the petitioners: M/S Raghunandan Singhand
Pawan Kumar, Advocates.**

**For the State : Mr. Barun Kumar Chaudhary,
A.P.P.**

For Opp.Party No.2: Mr. Barun Kumar Chaudhary

ORDER

The seven petitioners through this application have prayed for quashing of order dated 25.7.2007 passed by the Presiding Judge, Fast Track Court no.IV, East Champaran at Motihari in Sessions Trial no.517 of 2004 (arising out Ramgarhwa P.S.Case no.58 of 2002) whereby he has rejected the petition dated 30.12.2004 filed on behalf of the petitioners for their discharge from the case.

The informant Abhimanyu Thakur, impleaded herein as Opp.Party no.2, gave his fardbeyan at about 3.15 P.M. on 1.7.2002 at Duncun Hospital, Raxaul, stating, inter alia, that on 29.6.2002 there was a public meeting in the village where the Sub Divisional Officer, Block Development Officer, Mukhiya , Circle Officer and others arrived and villagers filed application for removing encroachment on the road. In this connection, the local Mukhiya and A.S.I. of Ramgarhwa Police Station inquired into the matter and when they returned back, there was groupism between the villagers and as a result thereof brick-batting and stone- pelting followed. One stone hit the head of the informant who sustained bleeding injuries and fled, in

course whereof he fell down and his arm was fractured. It was also stated that Awadhesh Kumar Thakur also sustained injury on the head from the pelting of brick-bats and was admitted in the same hospital. It is also alleged that when his son, Rakesh Kumar started fleeing , he accidentally fell down upon a **Kudal** kept at his **Darwaja** , as a result of which he received injury in the abdominal region and was being treated in the hospital. The informant also claimed that since a big crowd had assembled, neither he nor other injured could see the persons who had pelted the stones / brickbats from which injuries had been caused.

On the basis of the said fardbeyan, the aforesaid Ramgarhwa P.S. Case was registered under Sections-341,323,325,337 I.P.C., to which Sections-307 and 302 I.P.C. was added subsequently on the death of Rakesh Thakur.

The petitioners were not named in the F.I.R., but their names appear to have cropped up in course of investigation and were included in the chargesheet that was submitted by the police.

It has been submitted on behalf of the petitioners that from a bare perusal of the First Information Report, it would be evident that no case under Section-302 I.P.C. is made out against the petitioners in the present case and so far the petitioners are concerned, they are not even named in the F.I.R. It was also submitted that even injured, Awadhesh Thakur and Rakesh Thakur in their statements under Section-161 Cr.P.C. have supported the statements of the fardbeyan and they, too, have not named any of the petitioners as members of the

mob. It was further sought to be submitted that even deceased Rakesh Thakur did not name anyone and stated before the police that he had sustained injury due to fall. In this connection, it was sought to be submitted that it was at a belated stage of investigation when the villagers had been divided into two distinct groups at the behest of the Dy. Supdt. of Police that a new case was propounded and, thereafter, a protest petition was filed in the court by Abhimanyu Thakur in which he allegedly stated that Santosh Thakur assaulted Rakesh Thakur with **Bhala** and Pramod Thakur assaulted Abhimanyu Thakur with **Farsa** and in the first paragraph of the protest petition the informant though stating about lodging of the First Information Report subsequently stated that the aforesaid statements had not been given in the fardebayan.

Pointing out the aforesaid discrepancies and contradictions, the learned counsel for the petitioners sought to submit that the impugned order rejecting the prayer of discharge was an abuse of the process of the court and was required to be quashed, more so when no independent witness had supported the prosecution case based on the protest petition.

I am of the opinion that the court below has rightly rejected the prayer of discharge since this was not the stage to consider whether there was any independent witness supporting the prosecution case. That apart no law point has been raised on behalf of the petitioners.

It is by now settled by a catena of decisions that at the

stage of framing of charge the court has merely to peruse the evidence in order to find out whether or not there is sufficient grounds for proceeding against the accused and if the court is subjectively satisfied that there is a prima facie case made out, the court must proceed to frame charge. At this stage, the court is not required to make an elaborate inquiry in shifting and weighing materials to consider whether a particular offence is made out or not. At this stage, the statements of the witnesses cannot be discarded on the ground of delay in examination or inconsistency in their evidence or even of medical evidence and even where there is slightest suspicion of the accused having committed the offence, charge is required to be framed. Reference in this connection may be placed on the decision of the State of Bihar-Vrs. Ramesh Singh, reported in AIR 1977 SC 2018.

Due regard being had to the discussions made above, I do not find any merit in this application which is accordingly dismissed.

(Abhijit Sinha,J)

Patna High Court
Dated : the 11th July, 2008
Nawal Kishore Singh / A.F.R.